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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,769	10/05/2005	Hee-yong Han	0808-0353PUS1	2625

2292 7590 12/26/2008  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
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WARE, DEBORAH K

ART UNIT	PAPER NUMBER
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1651

NOTIFICATION DATE	DELIVERY MODE
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12/26/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com



### **DETAILED ACTION**

Claims 1-11 are pending.

#### ***Response to Amendment***

The amendment filed September 2, 2008, has been received and entered. The foreign priority documents have not been received as previously indicated.

#### ***Election/Restrictions***

Claims 2-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on February 14, 2008. Rejoinder request is acknowledged, however, the claims which have been examined on the merits are not deemed allowable at this time. Claims 2-10 remain withdrawn to the non-elected inventions. Although claims 2-5 may require the product of claim 1, Applicants should note that these claims are rejectable under 35 USC 112, second paragraph issues and furthermore claim 5 is also rejectable over prior art.

Claims 1 and 11 are reconsidered on the merits.

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities: Claim 1 does not recite the appropriate accession number for the biological deposit of the microorganism. Claim 1 is requested to delete "(KCTC)", at line 2 and insert –strain KCTC 10248BP – in place thereof. This is a recognized Korean Depository. Appropriate correction is required.

***Double Patenting***

Claim 11 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The claims are rendered free of the prior art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBBIE K. WARE whose telephone number is (571)272-0924. The examiner can normally be reached on 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DKW/  
Deborah K. Ware  
Examiner  
Art Unit 1651

/David M. Naff/  
Primary Examiner, Art Unit 1657